



**MINUTES OF MEETING OF THE CITY
COUNCIL OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, January 16, 2001, 8:00 p.m.**

MEETING

The Regular Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Jimenez.

ROLL CALL

Present: COUNCIL MEMBERS Jimenez, Hilson,
Rodriguez, Ward, Dowling, Henson
MAYOR Cooper
Absent: None

COMMENDATION: Moreau Boys' Cross-Country Team

Mayor Cooper commended the Moreau High School Boys' Cross Country Team, for their efforts and their participation in the State playoffs that resulted in receiving an award for their overall academic achievements. She introduced each of the players and announced their grade point averages as well. She also introduced the members of the coaching staff.

Principal Patricia Geister discussed what inspirational, hard working, and great academic students these young men are. She recognized the coaching staff, which included two alumnae as well as congratulated Coach Phil Wilder.

PRESENTATION: Pride in Hayward Award

The Mayor presented the first Pride in Hayward Awards for 2001 to the following Glen Eden homeowners: Jorge and Emily Rufo; Sam and Jean Sato; Eleanore Stockton; Arnold Eberstein; and Wilfredo and Sussy Clavijo. She thanked to all these homeowners who make their neighborhood look wonderful.

PUBLIC COMMENTS

Bill Maxedon, 395 St. Andrews, noted the long wait at the last meeting for the son of Hector Carabello to speak in memory of his father at adjournment. Mr. Maxedon suggested that memorials in honor of someone be made at the opening of the City Council meetings. He also commented on the length of the meeting in relation to public comments.

Jason Moreno, 25200 Carlos Bee Boulevard, listed the following topics, which he will speak on in the future: rent control, policing, and Council incumbents.

Frank Goulart, 22248 Main Street, expressed his concerns regarding the safety of children and the need for speed humps on Prospect Street. He commented on the work session that was held

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earlier in the day and questioned why his concerns were not addressed there.

Council Member Hilson made a statement regarding California's power shortage. He noted that the League of California Cities Board of Directors voted to commit municipalities to a 5% cutback in their usage. He explained Governor Davis' plan to alleviate this problem. Mayor Cooper urged everyone to conserve.

CONSENT

1. Approval of Minutes of the Meeting of January 9, 2001

It was moved by Council Member Hilson, seconded by Council Member Ward, and unanimously carried to approve the Minutes of the Meeting of the City Council for January 9, 2001.

2. Ordinance Related to Amendment of the Municipal Code to Authorize the Issuance of an Administrative Conditional Use Permit for Car Rental Agencies in the Neighborhood Commercial District

Staff report submitted by City Clerk Reyes, dated January 16, 2001, was filed.

It was moved by Council Member Hilson, seconded by Council Member Ward, and unanimously carried to adopt the following:

Ordinance No. 01-01, "An Ordinance Amending Section 10-1.820(a)(2) of Article 1 of Chapter 10 of the Hayward Municipal Code to Authorize the Issuance of an Administrative Conditional Use Permit for Car Rental Agencies in the Neighborhood Commercial ("CN") District"

3. Construction of Wheelchair Ramps at Various Locations: Award of Contract

Staff report submitted by Deputy Director of Public Works Bauman, dated January 16, 2001, was filed.

It was moved by Council Member Hilson, seconded by Council Member Ward, and unanimously carried to adopt the following:

Resolution 01-007, "Resolution Approving an Increase in Administrative Change Order Amount and Awarding Contract to Vanguard Construction, Inc. for the Construction of Wheelchair Ramps at Various Locations for Project Nos. 5114 and 5120"

4. Authorization for the City Manager to Execute an Agreement with the Bay Area Blues Society to



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Produce a Blues Festival in Hayward

Staff report submitted by Finance and Internal Services Director Carter, dated January 16, 2001, was filed.

It was moved by Council Member Hilson, seconded by Council Member Ward, and unanimously carried to adopt the following:

Resolution 01-008, "Resolution Authorizing the City Manager to Execute an Agreement With the Bay Area Blues Society to Produce a Blues Festival for Years 2001 and 2002 and Authorizing Appropriation of Funds"

5. Authorization for Local Matching Funds for Federal Revenue Aligned Budget Authority (RABA) Funds for Street Repair

Staff report submitted by Deputy Director of Public Works Bauman, dated January 16, 2001, was filed.

It was moved by Council Member Hilson, seconded by Council Member Ward, and unanimously carried to adopt the following:

Resolution 01-009, "Resolution Authorizing the Filing of an Application for Federal Surface Transportation Program and Congestion Mitigation and Air Quality Improvement Program Funding for Local Street Overlays and Committing the Necessary Local Match for the Project(s) and Stating the Assurance of the City of Hayward to Complete the Project"

HEARINGS

6. Appeal by Anthony Varni, Representing ConAgra Company (Owners), of Planning Commission Approval of Historic Site Designation No. 13 - Hunt Foods Water Tower - The Property is Located at 199 "C" Street

Staff report submitted by Acting Principal Planner Patenaude, for January 16, 2001, was filed.

Acting Principal Planner Patenaude made the staff presentation and gave an overview of the Planning Commission recommendation, which was appealed by ConAgra.

Mayor Cooper opened the public hearing at 8:34 p.m.

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Anthony Varni, 22771 Main Street, representing ConAgra Company, asked that this matter be continued thirty days to develop a formal agreement with the City until there is more information on the development in the area and the cannery study and environmental documents are finalized. He said they would agree to maintain the water tower in its present condition and not demolish it until the study is done. At that time, it would be feasible to consider making this a historic structure. As of now, the tower is presently in a guarded condition, without public access. He argued that it would do no harm to gather more information before this designation is made. The designation would make the tower difficult to remove in the event this is not deemed to be in the proper location for it. It might even be an obstruction to future development and may not be properly safeguarded from vandalism.

Council Member Jimenez commented that this is a historic structure to native Hayward citizens who worked for many years at the Hunts Cannery.

Council Member Henson questioned whether ConAgra is not necessarily opposed to the designation, but prefers to have further information. He asked what the negative would be if the Council were to designate this structure immediately.

Mr. Varni indicated further information should be gathered since designation at this time indicates that the water tower should stay where it is. He added that evaluation of the structural safety should be determined in proximity to the plans for the area. He indicated that it might be a mistake to designate it when this might make it difficult to remove in the event that this is not seen as the correct location. He maintained that it would do no harm to continue the item.

Acting Principal Planner Patenaude explained that there have been no recent studies to determine the safety of the structure in its present location. However, as the Cannery Plan goes forward, those questions will need to be answered.

City Manager Armas noted that the preferred alternative for the Cannery Plan does presume that there is a two-acre park surrounding this site. These questions would then need to be addressed. He indicated that nothing about this structure in proximity to the public is rare or unusual. The larger question is the prospect that this area may be developed in a sequence, which may not recognize the tower remaining at this location. He indicated that ConAgra wanted the Environmental Impact Report completed first to determine whether the preferred alternative is still the best one. Staff does not agree that the designation at this time is in conflict with this.

Council Member Ward asked the City Attorney whether the purpose was to preclude removal or modification to the structure. He asked further questions regarding a 30-day agreement.

City Attorney O'Toole agreed and added that it would also include maintenance of the structure.

City Manager Armas stated that there would be the risk that ConAgra might remove the tower, thinking this might be acceptable to the City. If nothing were to transpire, ConAgra would like to preserve the option of looking at a different location as well.



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Council Member Ward asked whether a deed restriction could be put into effect saying that anyone who might buy the property would be under City orders not to remove the structure.

Mr. Varni said that they were agreeable to record a document, which would preserve the tower. He indicated that members of the community have commented on the relocation of the tower. He said they were not asking for relocation. He indicated that ConAgra wanted to make sure its presence would be in the best location for everyone.

Frank Goulart, 22248 Main Street, Friends of Hayward, mentioned that designating the tower as historic at this point will preclude changes to the structure without using the Historic Building Code. This should be an advantage for approval. The Friends were in agreement with designating the Hunt Foods Water Tower as a historical site. It qualifies and is part of many memories of Hayward in years past. It is one of the last remaining examples of a structure once commonly used in the industry. It symbolizes an important period in the City's history. The maintenance of the structure will be a creative tie-in with the local Preservation Park. They also encouraged visible accessibility to the surrounding community. He applauded city staff for this effort towards preserving Hayward's history and recommending the designation.

Mayor Cooper closed the public hearing at 8:55 p.m.

Council Member Hilson discussed the option of another location and what the designation at this time might mean to any future relocation. He was told that it would not.

Council Member Jimenez would like to see the water tower remain where it is, and stated that it would lose its historical significance if it were to be moved from that site.

Council Member Hilson then moved, seconded by Council Member Rodriquez, to find the project categorically exempt from CEQA and deny the appeal, upholding the Planning Commission action to designate the Hunt Foods Water Tower as an historic structure subject to the findings in the staff report.

Council Member Dowling supported this motion. He said the Cannery Plan does not need to be connected to this designation. That will take many years. He said the present site would be significant to the importance of Hayward.

Council Member Henson said he supports this historic designation. He asked City Attorney O'Toole whether Mr. Varni's recommendation could be incorporated into an agreement with no time loss.

City Attorney O'Toole said the 30 days would not be a problem, since this historic designation could be brought back at any time.

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Council Member Henson then offered a substitute motion allowing for the 30-day period, incorporating into an agreement all of the tenets previously expressed by Council Member Ward and those of Mr. Varni. At the end of the 30 day period, both parties would record an agreement of understanding and then pursue the historical site designation when the environmental studies are completed just prior to the end of the moratorium.

Council Member Ward seconded this substitute motion. He noted that within the 30 days, all that could be accomplished would be an agreement. He asserted that the EIR would not be concluded until sometime in the summer. He also presumed that the EIR would address issues regarding the potential safety of the structure and any other issues that might fall under the CEQA provisions associated with this particular use.

City Manager Armas clarified that the environmental work will be done in the Spring as the moratorium expires in June. The environmental work is to examine the preferred alternative, and may not include the structural analysis of the tower.

Council Member Ward asked for further clarification on the issue regarding the structural integrity of the tower as it relates to the residential use around it. He asked who and when some analysis might be done regarding the structural integrity of the tower and how that will occur.

City Manager Armas indicated that preliminarily, the Council has indicated that from an urban design standpoint, it seems appropriate. The historic designation process determines a means by which judgements can be made as to the integrity of structures. If there are issues that warrant removal from the site, the designation will allow that.

Council Member Ward said the City Attorney indicated that any demolition would require a permit from the City, at which time the Council could make an emergency determination that would deem it inappropriate and then designate this site as historical.

City Manager Armas agreed that Mr. Varni indicated that they would not act precipitously on this matter so that a demolition permit by its nature would take some time which, in turn, would give Council an opportunity to act in a more expeditious fashion. Staff thinks designation now is meritorious given the discussion over the land use.

In response to further comments, City Manager Armas indicated that staff has been working on this issue for over a year and a half. It predates the preparation of the Cannery Plan. The Council can decide whether to act immediately or not.

Council Member Jimenez said he would like further reasons to wait 30 days.

City Manager Armas responded that staff does not think Council needs to. He stated that the request comes from the applicant. He added that Mr. Varni indicated that during that with a 30-day period, there would be some agreement that effectively keeps the tower in place with appropriate safeguards so that the environmental work presently underway can be completed. He then noted that staff thinks each is a separate matter.



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Council Member Henson clarified his motion, which was predicated on no alterations and no demolition. He suggested that if these were part of an up-front agreement, it should not be necessary to continue such a lengthy process.

It was moved by Council Member Henson, seconded by Council Member Ward, and failed by the following roll call vote to agree to a 30 day continuance so that a mutual agreement could be developed to maintain the water tower as is until the environmental studies are complete:

AYES: Council Members Ward, Henson
NOES: Council Member Jimenez, Hilson, Rodriquez, Dowling,
MAYOR Cooper
ABSENT: None
ABSTAINED: None

It was moved by Council Member Hilson, seconded by Council Member Rodriquez, and unanimously carried by all present, to approve the following:

Resolution 01-010, "Resolution Denying the Appeal of Planning Commission's Approval of Historic Site Designation No. 13 - Hunt Foods Water Tower - ConAgra Company (Owner)"

COUNCIL REPORTS

There were no Council Reports.

ADJOURNMENT

Mayor Cooper adjourned at 9:08 p.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward

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